

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on February 4, 2003 at 8 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: Rep. Alan Olson (R)
Rep. Clarice Schrupf (R)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 371, 1/29/2003; HB 348,
1/29/2003; HB 382, 1/29/2003
Executive Action: HB 111 DO PASS AS AMENDED;
HB 206 DO PASS AS AMENDED;
HB 201 DO PASS AS AMENDED

HEARING ON HB 371

Sponsor: REP. JOE BALYEAT, HD 32, Gallatin County

Opening Statement by Sponsor:

REP. BALYEAT said this bill removes statute requirements to have a 50/50 representation on some interim committees. They could be appointed to represent the makeup of the legislature. The present system does not reflect the makeup of the legislature but is wasting time and money on proposals that won't carry through the House. He gave an amendment that would take the legislative council off the list, leaving six other committees to be proportionate to the political balance. He gave a copy of written testimony.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.3}

EXHIBIT(sth24a01)

EXHIBIT(sth24a02)

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BROWN asked REP. BALYEAT, when an interim committee is split on party lines and the other party came in, what his argument would be then. He replied that he expects Democrats to control the next session. The committees should represent the makeup of the previous session; 50/50 is never right, he said. Proposals are never right because they do not represent the party in power.

REP. JENT asked the sponsor how many bills from interim committees that split on party lines were tabled in the regular session. REP. BALYEAT replied he will get that information.

REP. JENT asked if there were a list with the overall success of those bills. The sponsor replied he will get that from legislative services.

REP. LENHART said he had worked on evenly divided interim committees and they never had an issue that could not be resolved. REP. BALYEAT replied they can't move forward on major issues like tax reform. REP. JACOBSON stated the Legislative Audit Committee only once split 50/50. To the contrary, partisan sides felt bonding as an unintended consequence. The sponsor

replied there will be esprit de corps in any small committees.

REP. JACOBSON countered, committees do not have law-making authority. He asked if the bill might erode cooperation. **REP.**

BALYEAT replied that interim committee bills either failed or had only minor proposals that would not get momentum.

REP. JACOBSON asked if he had said 50/50 is never right. **The sponsor** replied he mis-spoke. **CHAIRMAN BARRETT** asked if, on bigger issues, agency bills must be presented to committee prior to being drafted. **REP. BALYEAT** replied interims would take a closer look at agency bills if they thought they could pass vs. the impotence of the present interim system.

REP. WINDY BOY asked if it would affect session committees. **REP. BALYEAT** replied they are already proportionate; he wants interims to be similarly proportionate.

{Tape: 1; Side: A; Approx. Time Counter: 8.1 - 26}

Closing by Sponsor: The sponsor closed.

{Tape: 1; Side: A; Approx. Time Counter: 26 - 27}

HEARING ON HB 348

Sponsor: **REP. DAVE WANZENRIED, HD 68, Missoula**

Opening Statement by Sponsor:

REP. WANZENRIED said this bill affects how the executive branch serves and how it is structured; this will be a comprehensive exam. The 1969 Commission on Reorganization reduced autonomy of agencies. The 1972 Constitution limited agencies to no more than 20 in number. Exhibit 3, a chart, and Exhibit 4, a table illustrating growth of FTEs, were submitted. He said he wants to know if the public is being served in an efficient manner.

{Tape: 1; Side: A; Approx. Time Counter: 27 - 36}

EXHIBIT (sth24a03)

EXHIBIT (sth24a04)

Proponents' Testimony:

Webb Brown, Chamber of Commerce, said sponsor wanted to eliminate Departments of Agriculture and Labor last session. His group wanted a study; now here it is. He suggested they amend the bill to have someone from the business community in on the study.

{Tape: 1; Side: A; Approx. Time Counter: 36 - 39.2}

Opponents' Testimony:

Tom Beck, Chief Policy Advisor to the Governor, said the fiscal note bothers him in these times of budget woes. The Governor's office may have to cut 4-5 units including Indian Affairs and Ombudsman. He said there will be a fiscal impact. He countered the sponsor's argument, saying that increases in federal funding create FTEs in health and transportation areas. Sometimes the funding is 6:1. A commission is not necessary; the legislature does this process through legislative study programs. "Do we need 4 FTE and a director for an obvious study?" he asked. He remarked that the fiscal note stated the director would stay until Dec. 2004, then they would have to keep the director on during the session to brief them. This will cost half a million dollars; some other committee can do this, he asserted.

{Tape: 1; Side: A; Approx. Time Counter: 39.2 - 43.3}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. SMITH asked Mr. Beck if the Governor helped prepare the fiscal note. He answered that she had; they are going on a study performed by the Racicot administration. **REP. SMITH** asked if the legislative staff could not do the study. He replied one of the interim committees could. **REP. BROWN** asked Mr. Beck if there was a way they could get the federal and grant money without having to hire more FTEs. **Mr. Beck** gave MDT as an example of more money coming in for road building and they had to hire engineers. DPHHS gets Medicaid money and they must hire people to administer CHIP and similar programs.

REP. BROWN asked if the state were required to hire FTEs or could they use the people they already have. **Mr. Beck** replied there were no specific requirements to hire FTE, but someone must administer the \$5-6 billion spending over the biennium.

REP. DICKENSON asked the sponsor to explain the process of legislative studies. He replied, "It is through a process of Resolutions; the top five receive funding. There will be a turf war; a lot of interested groups would oppose it. The interims do not have enough power to pull it off."

REP. DICKENSON restated his question, "Why do they need a commission versus a legislative study?" His answer was, "Turf." Interim committees many not come back, so they lack power, he said. This bill is patterned after a 1969 bill that was successful. **REP. LEHMAN** asked Mr. Beck about expense, i.e., if any study has been done to link FTE and additional fringe

benefits, office space, computers, etc. **Mr. Beck** said Department of Administration must have those figures.

REP. WINDY BOY asked him if they would cut Indian Affairs. He answered that this unit is included in the Governor's budget. But now they are back to Year 2000 base, cut it \$2.4 million. Their funding would only leave the Governor, Budget Director and one other FTE. He said it was not [the Governor's office] idea.

REP. WAGMAN asked him about Exhibit 4 and if he could he get information showing how many federal dollars went into FTEs. **Mr. Beck** said he will get that information.

REP. JACOBSON asked the sponsor about the fiscal note, if he would consider having the Lt. Governor. serve to staff this Commission. **REP. WANZENRIED** was not sure they need a high powered executive; they could use the Budget Office, Audit Division or LSD, part-time. They could use the 1960's model, and bring in private consultants to study why most FTEs are in Helena. **CHAIRMAN BARRETT** asked if the 1972 Constitution created this process. **The sponsor** said the new constitution said 20 departments and the number came down from 19 to 17.

CHAIRMAN BARRETT asked what executives came to Helena and when. He replied that 15 people from Montana Ambassadors came in 1981 for 16 months. Their recommendations were submitted to the 1983 & 1985 sessions. Montana Power and other large corporations assigned their executives to come here. Regarding the fiscal note, he said the private sector would provide resources.

CHAIRMAN BARRETT said, "Look at partisanship." She asked if large corporations would be accepted on the Committee today.

REP. WANZENRIED replied those were his concerns at the outset, but the safeguard is always the legislature. We should have done this bill ten years ago, he said.

{Tape: 1; Side: A; Approx. Time Counter: 43.3 - 66}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 4.5}

Closing by Sponsor:

REP. WANZENRIED said the Commission would be appointed by both Houses. He is not criticizing the number of FTEs in state government, but has an argument with how judiciously they structure executive programs, he said. He wants to know if technology can link Helena to the field, so they won't need all the FTEs in Helena. He urged them to think outside the box.

{Tape: 1; Side: B; Approx. Time Counter: 4.5 - 7.1}

HEARING ON HB 382**Sponsor:** REP. JONATHAN WINDY BOY, HD 92,**Opening Statement by Sponsor:**

REP. WINDY BOY, first spoke in another language, then English. He said having English as the official language beat German by one vote. He shared that he has heard horror stories of elders in missionary schools being punished for speaking their own language; he tries to preserve his culture, he said. An unwritten law in the eyes of the creator is that the pipe represents truth in smoking sweetgrass, for Native Americans. By contrast, he said treaties written in English were in a foreign language to Indians. He presented an exhibit of five articles.

EXHIBIT(sth24a05)*{Tape: 1; Side: B; Approx. Time Counter: 8.8 - 14.9}***Proponents' Testimony:**

Scott Crichton, Executive Director, Montana ACLU, said in 1995 the English-only law was enacted, which violates the equal protection clause of the 14th Amendment and perhaps the 1st Amendment protection of free speech. This came from anti-immigration attitudes, but Montana does not have a large immigrant population. Then he said the law is for a social, not a legal argument.

REP. CAROL JUNEAU, HD 83, stated the state government does not have the right to give tribes permission to use or not use their language.

REP. JOEY JAYNE, HD 73, said the law as it is today may have violations. She urged respect for the Navaho Code Talkers recently portrayed in the movie "Windtalkers." The point is that English is their second language.

Veronica Small-Eastman, Former Representative, said to get into a university, students must have taken a foreign language. She urged acceptance of their Native languages.

*{Tape: 1; Side: B; Approx. Time Counter: 14.9 - 35.1}***EXHIBIT**(sth24a06)

Opponents' Testimony: None

Informational Testimony:

Tony Plummer, Cherish Our Indian Children, Native American Caucus

Questions from Committee Members and Responses:

REP. BROWN asked **REP. WINDY BOY** to address the First Amendment problem. He deferred to **REP. JAYNE**, who said she is not sure if it legally violates the First Amendment, but a lot of Natives do not speak English. **CHAIRMAN BARRETT** asked her if she knew what **REP. WINDY BOY** had said in his language. **REP. JAYNE** said no, he speaks a different language.

REP. ROBERTS asked **REP. JAYNE** if her concerns in the matter were voting rights or contracts. He stated there are four or five different types of Spanish. She replied that she could not answer that. The intent of the bill was not to require contracts written in Native languages, she added.

REP. BALLANTYNE asked **REP. WINDY BOY** if they did not need a fiscal note. He asked if ballots had to be printed in various Native languages. **REP. WINDY BOY** said he didn't think they needed a fiscal note; if they do, he will get one.

REP. BALLANTYNE asked the intent of the bill. **REP. WINDY BOY** replied his granddaughter is required to take Spanish to graduate. This bill would open up Title VII, bi-lingual education; schools have limited resources but are required to teach languages like Spanish.

REP. BROWN asked him how many states have an English-only law. He replied five or six. She said she understands his frustration with Spanish and asked if there were other Indian high schools or states who allow Native languages to count. He replied that California just repealed the English-only law, with 56% Spanish speaking people, and the Crow Elementary School uses primarily Crow.

REP. YOUNKIN asked Mr. Crichton his perspective on the 1995 law. He replied it was fear-based. They reasoned that the state might have to print ballots or government documents in a foreign language. She asked if this bill would resolve a practical matter now. **Mr. Crichton** replied that older folks will understand what is going on, and can participate in the electoral process without getting translators. She asked if he anticipated the Voter Information Pamphlet being printed in other languages. He replied, "Possibly." She asked if he anticipated ballot

initiatives printed in tribal languages. **Mr. Crichton** replied, "Possibly. Look at the present law; the intent was not to violate free speech but other states have had challenges to these laws." Workers are not allowed to speak another language. It restrains efficiency of government, he said.

REP. BERNIE OLSON asked Mr. Crichton if he knew about the 1832 ruling to bring Indians under federal control. He replied that he is not a lawyer, but he is familiar with voting rights. **REP. SMITH** asked the sponsor if it were true that not all reservations speak the same language. **REP. WINDY BOY** agreed. **REP. SMITH** asked if even non-Indian kids excelled at Indian languages when they had to take it in school. The sponsor agreed. **REP. GIBSON** asked if this is more of a respect issue, or if it will change things. The sponsor answered, "All of the above."

REP. HURWITZ asked him if he was hoping testimony would be entered into the record in his own language. The sponsor replied that it would probably be a partisan issue, and probably won't go further than here. He added tribes should have been approached out of respect. **CHAIRMAN BARRETT** asked Mr. Crichton if he knew of any Indian Senatorial candidates 30 years ago. He replied he did not know. She said she was concerned if the bill passed, then ballots and books must be written in more than one language. Informational witness **Tony Plummer** was called to testify and she stated that the intent of this bill is to respect the seven tribes; the bill is based on principal. The current law speaks to separation, she stated. There was no fiscal note because no tribe would press the issue to change ballots and pamphlets, she said. It is a partnership issue, she said.

{Tape: 1; Side: B; Approx. Time Counter: 35.1 - 66}

{Tape: 2; Side: A; Approx. Time Counter: 0 - 12.1}

Closing by Sponsor:

REP. WINDY BOY thanked them for the hearing and said this is a housekeeping bill.

EXECUTIVE ACTION ON SB 7

Discussion: **CHAIRMAN BARRETT** asked for a motion to reconsider SB 7. She said if it carried, the bill can stay in committee.

Motion/Vote: **REP. WINDY BOY** moved to **RECONSIDER THE VOTE ON SB 7**. On a voice vote, motion carried 19-0. Proxies were received from **REPS. ALAN OLSON, SCHRUMPF, YOUNKIN and BALLANTYNE**.

Rep. Jent requested that SB 136 be segregated from the committee report, pending work on SB 7, and **CHAIRMAN BARRETT** agreed to that.

EXECUTIVE ACTION ON HB 111

Motion: REP. BROWN moved HB 111 DO PASS.

Motion: REP. BROWN moved HB 111 AMENDMENTS.

EXHIBIT(sth24a07)

Discussion:

REP. BROWN said this will limit bills drafts to ten. REP. LENHART supports, but doesn't think it goes far enough. REP. BROWN said they could throw it into an interim study. REP. GIBSON asked REP. BROWN if there was a problem because there so many more freshmen. REP. BROWN said it is one of many the interim will address. CHAIRMAN BARRETT supported the bill. She stated the problem is not the freshmen, but veteran lawmakers. REP. YOUNKIN said term limits could increase the number of bills. She is a fourth-termers, so she better do any bills she wants to see now. Question was called.

Vote: On a voice vote, motion carried 19-0. Proxies were received from REPS. ALAN OLSON, SCHRUMPF, YOUNKIN and BALLANTYNE.

Motion/Vote: REP. BROWN moved HB 111 DO PASS AS AMENDED. On a voice vote, motion carried 19-0. Proxies were received from REPS. ALAN OLSON, SCHRUMPF, YOUNKIN and BALLANTYNE.

{Tape: 2; Side: A; Approx. Time Counter: 15.2 - 25.1}

EXECUTIVE ACTION ON HB 206

Motion: REP. YOUNKIN moved HB 206 DO PASS.

Motion: REP. YOUNKIN moved HB 206 AMENDMENTS.

EXHIBIT(sth24a08)

Discussion: REP. YOUNKIN said it is a technical amendment requested by Department of Justice.

Vote: On a voice vote, motion carried 19-0. Proxies were received from REPS. ALAN OLSON, SCHRUMPF and BALLANTYNE

Motion: REP. WAGMAN moved HB 206 DO PASS AS AMENDED.

Discussion: REP. LENHART told REP. YOUNKIN of his concern about money being placed in the MHP retirement. She replied in 1995, licenses went from four to eight years; it screwed up the actuarial soundness of the fund. REP. LENHART said they have the highest percentage of state funding of any retirement systems i.e., 25-26%. REP. YOUNKIN said that the state has committed to that. REP. BROWN said they do not get social security. REP. LENHART replied they could opt to change that, then the state's obligation would decrease. Ms. Heffelfinger was asked. She stated the money does not come from the general fund; it is a special revenue account. REP. YOUNKIN said, "Look at the fiscal note." Question was called.

Vote: On a voice vote, motion carried 18-1. CHAIRMAN BARRETT voted No. Proxies were received from REPS. ALAN OLSON, SCHRUMPF and BALLANTYNE.

{Tape: 2; Side: A; Approx. Time Counter: 25.1 - 37}

EXECUTIVE ACTION ON HB 201

Motion: REP. JENT moved HB 201 DO PASS.

Motion: REP. JENT moved HB 201 AMENDMENTS.

EXHIBIT (sth24a09)

Discussion:

Ms. Heffelfinger explained the cleanup amendment to revise voter registration for military and overseas people. HAVA required federal absentee ballots be provided earlier than 75 days before. To coordinate with HB 190, she is still working on an amendment for 190 that will address section 4 of this bill also.

Vote: On a voice vote, motion carried 19-0. Proxies were received from REPS. ALAN OLSON, SCHRUMPF, YOUNKIN and BALLANTYNE.

Motion: REP. JACOBSON moved HB 201 DO PASS AS AMENDED

Discussion:

REP. DICKENSON had a problem sending ballots only 30 days before; she asked why the time was shortened. **CHAIRMAN BARRETT** asked **Ms. Heffelfinger** who said, "It does not change the law for other than the uniformed personnel or spouses or overseas electors." **REP. JENT** said they took all the absentee voting requirements and put them into one bill. "Snowbirds" will not be affected by HB 201. HB 190 may affect them; they may need to amend that bill. Question was called.

Vote: On a voice vote, motion carried 19-0. Proxies were received from **REPS. ALAN OLSON, SCHRUMPF, YOUNKIN and BALLANTYNE.**

{Tape: 2; Side: A; Approx. Time Counter: 37 - 48.8}

There was a discussion among **REP. JENT, REP. BROWN** and **CHAIRMAN BARRETT** about Exhibit 5 from HR 3. **CHAIRMAN BARRETT** said to let it stand.

{Tape: 2; Side: A; Approx. Time Counter: 48.8 - 52.7}

ADJOURNMENT

Adjournment: 11:15 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth24aad)